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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re

EASTERDAY RANCHES, INC., *et al.*

Debtors.¹

Chapter 11

Lead Case No. 21-00141-11
Jointly Administered

**REPLY IN SUPPORT OF
APPLICATION FOR AN ORDER
AUTHORIZING DEBTORS'
EMPLOYMENT AND COMPENSATION
OF NORTHWEST CPA GROUP, PLLC,
AS TAX ACCOUNTANT *NUNC PRO
TUNC* TO MAY 28, 2021**

¹ The Debtors along with their case numbers are as follows: Easterday Ranches, Inc. (21-00141) and Easterday Farms, a Washington general partnership (21-00176).

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APPLICATION FOR NORTHWEST
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1 The above-captioned debtors and debtors in possession (the “Debtors”) in the
2 above-captioned chapter 11 bankruptcy cases (the “Chapter 11 Cases”), hereby submit
3 this reply (the “Reply”) in support of the *Application for an Order Authorizing the*
4 *Debtors’ Employment and Compensation of Northwest CPA Group, PLLC, as Tax*
5 *Accountant Nunc Pro Tunc to May 28, 2021* [Docket No. 756] (the “Application”),² and
6 in response to the *Objection to Employment of Northwest CPA Group, PLLC* [Docket
7 No. 824] (the “Objection”) filed by the Office of the United States Trustee (“UST”).
8 For the reasons set forth in this Reply, the Objection should be overruled and the
9 Application should be granted.
10

11 REPLY

12 The UST objects to the Debtors’ Application to employ Northwest CPA Group,
13 PLLC (“NWCPA”) as their tax accountant in both the Ranches and Farms cases, on
14 essentially three bases: (i) that the scope of NWCPA’s proposed retention is unclear,
15 (ii) that NWCPA is not “disinterested” within the meaning of Bankruptcy Code section
16 101(14), and (iii) that NWCPA should be required to apply for allowance of
17 compensation pursuant to section 330 of the Bankruptcy Code.
18

19 **A. NWCPA’s Scope of Work is Clearly Stated in the Application**

20 The UST’s objection that the scope of NWCPA’s retention is unclear is
21 misplaced. The Application makes clear that the Debtors are seeking to retain NWCPA
22 solely as the Debtors’ tax advisor and that the scope of NWCPA’s retention will be
23

24
25 ² Capitalized terms used but not defined herein shall have the meanings ascribed to
26 them in the Application.

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1 limited to providing (1) tax accounting services and (2) tax advice with respect to: (a)
2 the preparation of the Debtors' tax returns, (b) these Chapter 11 Cases, and (c) any
3 material transactions in these Chapter 11 Cases, subject to the terms and conditions of
4 the Engagement Agreements attached to the Application. *See* Application, p. 6, ln. 7 –
5 11. In this regard, the Application makes clear that NWCPA will be providing limited
6 tax related services to the Debtors. While the Engagement Agreements allow the
7 Debtors to request that NWCPA provide the Debtors tax related services in addition to
8 the preparation of applicable tax returns for each of the Debtors, the scope of NWCPA's
9 retention is limited by the terms of the Application to providing the Debtors solely tax
10 accounting and related tax advice. Because NWCPA will only be providing limited
11 services to the Debtors with respect to a single subject matter (tax), the scope of
12 NWCPA's retention is sufficiently clear and specific under the circumstances. In the
13 event that the Debtors seek to expand the scope of NWCPA's proposed retention
14 beyond providing the Debtors tax accounting and tax advice, the Debtors will file an
15 appropriate request with this court.

16
17
18 **B. NWCPA Does Not Hold or Represent an Adverse Interest**

19 The UST also asserts that NWCPA is not disinterested within the meaning of
20 section 101(14) of the Bankruptcy Code because NWCPA cannot "represent" both of
21 the Debtors in these Chapter 11 Cases. In support of this argument, the UST asserts
22 that NWCPA cannot "represent" both Debtors because it "would mean the applicant is
23 on both sides of the investigation and pursuit of claims against Ranches and represents
24 an interest adverse to the respective estates." *See* Objection, p. 4, ln. 10 – 12. However,
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1 as the Application makes clear, NWCPA will not be investigating or pursuing any
2 claims against the Debtors estates or any other party; rather, NWCPA will be providing
3 both of the Debtors tax advice related to these Chapter 11 Cases and any material
4 transactions therein, in addition to preparing any tax returns which the Debtors may be
5 required to file during these Chapter 11 Cases. Indeed, the UST's repeated references
6 to the NWCPA "representing" the estates – as if they are engaged in an adversarial
7 process – belies the UST's mistaken understanding of the nature of NWCPA's services
8 to the estates.
9

10 The UST also identifies NWCPA's current and former engagements with certain
11 insiders and non-Debtor affiliates, which are disclosed in the Application, as a basis for
12 its argument that NWCPA is not disinterested. As the Objection states, "[s]ection
13 327(c) adds that a person is not disqualified for employment under this section solely
14 because of such person's employment by or representation of a creditor, unless a party
15 objects and the court 'shall disapprove such employment if there is an actual conflict of
16 interest'". Objection, p. 3, ln. 15 – 19 (emphasis supplied). However, the Objection
17 does not identify *any* actual conflict of interest. Rather, the Objection asserts that a
18 *potential* conflict of interest may arise with respect to potential sale proceed allocation
19 disputes among the Debtors or certain non-Debtor related parties. NWCPA's retention
20 is limited to providing tax related services and does not include litigating any non-tax
21 related sale proceeds allocation issues, which issues are already being addressed by
22 other of the Debtors' professionals. According, the UST fails to identify any actual
23 conflict of interest of NWCPA in the Objection.
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1 Indeed, NWCPA's current and former engagements with the Debtors and certain
2 non-Debtor related parties represents a material benefit for the Debtors and their estates.
3 There are exceedingly complex real estate ownership structures and interrelated
4 operational issues among the Debtors as well as certain non-Debtor related parties.
5 NWCPA's extensive knowledge regarding the Debtors' ownership structures and
6 operational arrangements will assist them in providing the most fulsome, accurate, and
7 efficient tax services to the Debtors. If the Debtors were each required to retain separate
8 tax advisors to assist with the same tax-related issues in these Chapter 11 Cases as the
9 UST advocates, each Debtor's estate would be forced to incur duplicative costs for the
10 same services as well as additional costs for two new sets of tax advisors to conduct
11 sufficient diligence to provide each of the Debtors competent tax advice. Rather than
12 astronomically increase the administrative costs of these estates to the detriment of their
13 stakeholders, the Debtors have opted to realize the benefits of a well-qualified
14 professional that is well acquainted with the Debtors' respective ownership and
15 operational structures for the benefit of their stakeholders.
16
17

18 **C. The UST's Fee Application Issue Has Been Resolved**

19 In the event that the Application is approved, the Debtors and the UST have
20 reached a resolution regarding the payment of fees and expenses to NWCPA. Subject
21 to this court's approval, the Debtors, collectively, would be authorized to pay NWCPA
22 up to \$3,000 per calendar month on an interim basis without interim application or
23 further order of this court, provided that, nothing would prohibit NWCPA from seeking
24 payment on an interim basis in excess of such monthly amount, pursuant to section 331
25
26

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1 of the Bankruptcy Code or order of this court. At the appropriate time, and in
2 conjunction with the balance of the Debtors' professionals, NWCPA will file a final fee
3 application seeking the final allowance of any amounts previously paid on an interim
4 basis and any additional amounts which may be sought in such final fee application,
5 pursuant to section 330 of the Bankruptcy Code, the Bankruptcy Rules, and the Local
6 Rules.
7

8 CONCLUSION

9 Based on the foregoing, the Application, and such additional reasons as may be
10 advanced at the hearing on the Application, the Debtors respectfully request that this
11 court (i) enter an order approving the employment of NWCPA as the Debtors' tax
12 advisor, *nunc pro tunc* to May 28, 2021, (ii) overrule the Objection, and (iii) grant such
13 other and further relief as may be just and proper under the circumstances.
14

15 Dated: June 22, 2021

BUSH KORNFELD LLP

16 /s/ Thomas A. Buford

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